

REMARKS

IDS REFERENCE

Applicants note that Examiner requests a copy of the "Flush Safe label" as cited in the information disclosure statement filed on August 17, 2001 and initialled by the Examiner on July 3, 2002. Applicants searched in all of their files for a copy of the cited referenced, but are unable to locate a copy, as submitted to the Examiner on August 17, 2001. Applicants include a copy of the current information from Internet websites, www.flushaway.com/products.htm and www.isxprs.com/Guards.html. Applicants believe one of these products to be the one disclosed in the August 17, 2001 information disclosure statement.

IN THE DRAWINGS:

The drawings are amended to correct informalities noted by Examiner. Solid lines and outlines of structures 42, 50, 60, 142 and, 150 in Figs. 2, 3, and 5, have been replaced with dashed lines denoting an underlying structure. Applicants believe this amendment satisfies the Examiner's objections. Applicants respectfully request the objections to the drawings be withdrawn.

IN THE SPECIFICATION:

The Examiner objects to informalities in the first paragraph of the Summary. Applicants respectfully traverse. Applicants contend that an amendment to the Summary of the Invention is premature at this time. MPEP 1302.01 states that "when an application is apparently ready for allowance, it should be reviewed by the examiner to make certain that the whole application meets all formal and substantive

requirements.” If the claims are allowed, an amendment to the Summary **may be** necessary at that time (emphasis added).

Page 6, line 3 of the specification has been corrected to delete “W” and add W₁, W₁, W₂, W₂, W₃, W₄, W₅, and W₅, as noted by Examiner.

The Examiner notes confusion with regard to the determination of what layer is considered to be “largest” with regard to the claims. Claims 1, 12, and 19 have been amended to obviate any misunderstanding.

On page 14, the paragraph beginning on line 14 has been amended to clarify the structures that may optionally serve as the cover layers of the claimed invention. Support for this clarification can be found on page 8, lines 24-28 of the Specification. Applicants respectfully request the Examiner to withdraw the objection with regard to this paragraph.

IN THE CLAIMS:

Claim 19 has been amended to correct the informality noted by the Examiner with respect to amending “an” to “the”. Applicants respectfully request the Examiner’s objection to this claim be withdrawn.

Claims 1-3, 5-14, and 17-20 are rejected under 35 U.S.C. § 112, second paragraph. Applicants have amended independent claims 1, 12, and 19 to clarify the size relationships initially intended by the Applicants. As evidenced by page 12, line 7 through page 13, line 13 of the specification, that the largest layer of the absorbent insert is measured by the insert’s surface area. To clarify this definition, the independent claims are amended to include a delay layer that has a surface area less than the surface layer of each of the primary surfaces of the at least one of the

absorbent layers. Thus, for example, if there are three absorbent layers, the delay layer has a surface area less than the surface area of one or all of the layers. If there is only one absorbent layer, the delay layer has a surface area smaller than the surface layer of the absorbent layer. If there are two absorbent layers that have equal surface area, the delay layer will have a surface area less than the surface area of either or both of the absorbent layers. No new matter has been added and the changes made to these claims were not for reasons of patentability. Applicants respectfully request the Examiner's objection to the specification and the rejections of the claims be withdrawn.

Claim 20 has been amended to conform to preamble of claims 19 and 20. No new matter has been added and the changes made to this claim were not for reasons of patentability. Applicants respectfully request the Examiner withdraw this objection.

Claims 5 and 17 have been cancelled to delete material that would be inconsistent with the proper interpretation of the definition of "water insoluble continuous fluid impermeable delay layer."

Nilsson et al. Does Not Anticipate Claims 1-3, 5-14, and 17-18

Claims 1-3, 5-14, and 17-18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Nilsson et al. Applicants respectfully traverse this rejection.

The present claims require the "fluid impermeable delay layer" to be water insoluble. In contrast, Nilsson et al. teaches a flushable sanitary napkin with a baffle layer that is water soluble. Therefore, Nilsson et al. do not anticipate the claimed fluid impermeable, and Applicants respectfully request that the rejection be withdrawn.

Matsuda Does Not Anticipate Claims 1-3, 6-7, 12-14 and 18

Claims 1-3, 6-7, 12-14, and 18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Matsuda. In view of Applicants' comments with regard to Nilsson et al. and the following remarks, Applicants respectfully traverse.

Matsuda teaches a sanitary napkin with a waterproof strip 10 placed between the bottom absorbent layer and the outer wrapper of the napkin. Col. 1, lines 42-46. The waterproof strip is as wide as the absorbent layers and it may be wider than the absorbent layers. Col. 1, lines 46-48 through Col. 2, line 1. Presumably, this waterproof strip is designed to protect the wearer's undergarments from being soiled during use of this napkin. Such a structure would defeat the purpose of the present invention. The insert, as claimed in claims 1-3, 6-7, 12-14, and 18, is designed to allow large insults of fluid to pass through the added insert to the garment, with which it is used. In contrast, the sanitary napkin, as taught by Matsuda, is designed to prevent the flow of fluid from the absorbent material to the user's undergarments, which is not an absorbent garment as required by the claims.

Matsuda therefore does not teach all the limitations required by the present claims. Applicants respectfully request withdraw of this rejection.

Nilsson et al. and Kimberly Clark (KC) '451 Do Not Render Claims 19-20 Obvious

Claims 19-20 are rejected under 35 U.S.C. § 103(a) as being obvious in view of Nilsson et al. and further in view of KC. Applicants respectfully traverse.

Nilsson et al. is discussed above and does not disclose all of the features of the claimed insert. KC '451 does not further teach fluid impermeable delay layers. In fact,

KC teaches a disposable panty for holding a sanitary pad. There is no motivation in either reference to provide an insert that includes a liquid impermeable delay layer as required by the present invention. Therefore, Applicants respectfully request that the rejections be withdrawn.

Applicants believe they have completely addressed all the objections and rejections raised by the Examiner. Applicants believe that all the claims are in condition to be allowed and respectfully request the same. If, for any reason, the Examiner feels that the above amendments and remarks do not put the claims in condition for allowance, the undersigned attorney can be reached at (312) 321-4787 to resolve any remaining issues.

Respectfully submitted,

A handwritten signature in cursive script that reads "Amanda M. Church". The signature is written in dark ink and is positioned above a horizontal line.

Amanda M. Church
Reg. No. 52,469
Attorney for Applicants

BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610
(312) 321-4200